SUPREME COURT, U. S.

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No. 71-168

In the Supreme Court of the United States

OCTOBER TERM, 1971

RONALD HENRY [illegible], PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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After a jury-waived trial in the United States District Court for the Southern District of New York, petitioner was convicted of transporting two women in interstate commerce for purposes of prostitution, in violation of 18 U.S.C. 2421, and of conspiracy to commit that offense, in violation of 18 U.S.C. 371.[1] He was sentenced to two years on each count, to run concurrently (App. 312). The court of appeals affirmed without opinion.

[1] The trial judge summarized the evidence and gave his reasons for convicting petitioner on these charges, while acquitting him of other charges under 18 U.S.C. 2422 and 2423 (App. 289-295). "App." refers to the appendix in the court of appeals, which the government is lodging with the Court.

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Joyce Tiedens and Christie Saf, two seventeen year old girls living in Minneapolis, gave detailed testimony which the trial court characterized as "persuasive, convincing and entirely credible" (App. 292). The two girls, returning from a party celebrating Joyce's seventeenth birthday, were picked up in Minneapolis by petitioner, co-indictee Bernard, and another man. Later at a motel, Christie asked one of the men in the presence of the others what they did for a living and was told that they were pimps. Petitioner asked the girls if they wanted to go to New York. Christie said no; Joyce said yes, but did not mean it seriously (App. 12, 14–19, 20, 141–142, 144).

On the following day, Joyce had a quarrel with her father. She and Christie returned to the motel and told petitioner they wanted to go to New York. Petitioner and Bernard planned to leave with the girls that night. Petitioner told Joyce she did not need any money, that he would take care of her and would get her anything she wanted (App. 22). On the way to the airport, the men advised the girls to change their names and to claim that they were nineteen, and gave them money for their tickets (App. 23–24, 148–149). When they stopped overnight in Chicago, neither of the girls was permitted to call her parents (App. 25–26, 152). On the plane to New York, petitioner asked Joyce if she would do anything for him, "like to be a bank robber or a prostitute"; she replied that she would not (App. 26).

In New York, the two couples went together to an apartment house, and afterwards petitioner took Joyce

to the apartments of two girl friends. Both girls gave petitioner money; one asked whether Joyce was going to work that night (App. 27–29). Petitioner bought Joyce clothing and took her to a hotel, where he gave her about three hundred dollars. On the following day, petitioner sent Joyce to a doctor for birth control pills, and told her that they would talk about business later (App. 29–34).

In the meantime, Bernard introduced Christie to his friend Linda, whom Christie understood was a prostitute. Christie told Bernard she wanted to go home, but he grabbed her by the arm and told her she was staying (App. 153–156). Bernard arranged a room for Christie, and had Linda instruct Christie how to operate successfully as a prostitute (App. 159–161). When Christie got to her room, she called her parents and the police (App. 162–163).

The New York police notified the F.B.I. of Christie's call. An F.B.I. agent subsequently went to Joyce's apartment and talked with her. When petitioner came to the room and saw the agent, he fled, and was apprehended by another officer (App. 35).

On this record, the trial judge found petitioner guilty of unlawfully transporting interstate a female for immoral purposes, and of conspiring with Bernard to do so. Plainly, the evidence that the judge credited (see App. 292–295) provides ample support for this conclusion. The two men cooperated in planning the trip to New York, providing the funds for the girls' tickets, advising the girls to falsify their names and ages, arranging the overnight stay in Chi-

cago, and finally taking the two girls to the same apartment house in New York. Even if petitioner and Bernard intended to go their separate ways after they reached New York, the evidence concerning their acts in New York was admissible to show the purpose of the conspiracy to transport. *Lutwak* v. *United States*, 344 U.S. 604, 617.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

SEPTEMBER 1971.

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